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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,661	11/03/2000	Kazuto Okazaki	4296-123	6250

7590 09/04/2003

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EXAMINER
RIDLEY, BASIA ANNA

ART UNIT	PAPER NUMBER
1764	

DATE MAILED: 09/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/705,661	Applicant(s) OKAZAKI ET AL.	
	Examiner Basia Ridley BR	Art Unit 1764	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *none*.

   Claim(s) objected to: *none*.

   Claim(s) rejected: *8-10*.

   Claim(s) withdrawn from consideration: *11-13*.

8. ☒ The proposed drawing correction filed on *18 August 2003* is a)☒ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☒ Other: *See Continuation Sheet*

JERRY D. JOHNSON
PRIMARY EXAMINER
GROUP 1100

Continuation of 5. does NOT place the application in condition for allowance because: applicant's arguments are not persuasive.

The applicant argues that disclosure of Oswalt et al. is directed to conventional mechanical refrigerating system for cooling manufacturing equipment. Therefore it is applicant's position that Oswalt et al. is entirely unrelated to the production of acrylic acid or acrolein or the gasification of liquefied propylene and/or propane, or to the nature of the problem to be solved by the current invention. Therefore there is no motivation to combine the elements of Oswalt et al. with the Admitted Prior Art.

This is not found persuasive. As stated in In re Deminski, 796 F.2d 436, 442, 230 USPQ 313, 315 (Fed. Cir. 1986) (quoting In re Wood, 599 F.2d 1032, 1036, 202 USPQ 171, 174 (CCPA)): the determination that a reference is from a non-analogous art is therefore two-fold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the particular problem with which the inventor was involved. Following that test, one concerned with the field of production of acrylic acid or acrolein, which is a chemical process including an evaporating cooler and various heat exchangers which use a liquid coolant (see Fig. 1 and P2/L24-P3/L18 of instant specification), is clearly chargeable with knowledge of Oswalt et al., which discloses a system for performing a chemical process wherein a liquid coolant used in various heat exchanger is prepared in a evaporating cooler (Fig. 1 and C1/L9-19). Therefore said reference is "within the field of the inventor's endeavor".

Further, Oswalt et al. is "reasonably pertinent" to the particular problem with which applicant is involved, namely an improvement of the well known process of production of acrylic acid or acrolein which involves usage of liquid coolant which is prepared in an evaporator and which is recirculated to said evaporator after being used. (see instant specification: P3-L26-P5/L29 Oswalt et al., which discloses a system for performing a chemical process wherein a liquid coolant used in various heat exchanger is prepared in a evaporating cooler (Fig. 1 and C1/L9-19), therefore it is reasonably pertinent to the problem with which appellant is involved, and thus it is an analogous art.

Additionally the applicant states that the examiner has acknowledged that Oswalt et al. does not disclose that a liquid coolant can be supplied to the evaporator, chilled there to prepare a chilled coolant, and used in said heat exchangers in the apparatus and later re-circulated back to the evaporator. This statement is not correct, because the examiner has, in fact, stated that Oswalt et al. teaches that it is known to prepare a process coolant, which can be used as a coolant in heat exchangers in various processes (C1/L9-19), by passing a liquid coolant through an evaporator (6). Chilled coolant from said evaporator (6) is used in various processes and spent process coolant is being re-circulated back to the evaporator (6) (see page 5 of Final rejection mailed on 3 June 2003.

Continuation of 10. Other: Note the attached Interview Summary conducted 2 September 2003..